

claims at one time rather than conducting separate examinations. Such a duplication of effort is not only wasteful of Patent Office manpower and resources, it also significantly increases the cost of Applicants obtaining patent protection for the closely related inventions.

Moreover, restriction is not "required" by 35 U.S.C. § 121 as suggested by the Examiner. Congress wisely gave the Commissioner the "discretion" to require restriction. According to 35 U.S.C. § 121 "... the Commissioner may require the application to be restricted...." (emphasis added). Likewise, the MPEP § 803 lists two criteria that must be present for restriction to be proper:

- 1) The invention must be independent or distinct; and
- 2) There must be a serious burden on the Examiner if restriction is not required (emphasis added).

The Examiner has not shown any serious burden if examination of all of the claims and species is conducted at one time. It is therefore respectfully requested that the Examiner reconsider and withdraw the restriction requirement.

Respectfully submitted,

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